

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

**JULIA M. RANDLE
BORN WELBORN**

VERSUS

**CIGNA HEALTH AND LIFE INSURANCE
COMPANY, LIFE INSURANCE
COMPANY OF NORTH AMERICA**

* * * * *

*** CIVIL ACTION NO.:
*
* JUDGE
*
* MAG. JUDGE

NOTICE OF REMOVAL

TO: JULIA M. RANDLE
Through her attorneys of record
Steven W. Hale
W. Taylor Hale
Steven W. Hale & Associates, Inc.
A Professional Law Corporation
1735 Ryan Street
Lake Charles, LA 70601

PLEASE TAKE NOTICE that Cigna Health and Life Insurance Company (“Cigna Health”), improperly named as a defendant in these proceedings, and Life Insurance Company of North America (“LINA”), both named as defendants in the proceeding entitled “*Julia M. Randle Born Welborn v. Cigna Health and Life Insurance Company, Life Insurance of North America*,” Civil Docket No. 2017-4792, on the docket of the 14th Judicial District Court for the Parish of Calcasieu, State of Louisiana, Division “D,” on January 4, 2018 filed in the United States

District Court, Western District of Louisiana, its Notice to effect the removal of said Civil Action to the United States District Court for the Western District of Louisiana.

LINA respectfully represents that the grounds for removal are as follows:

I.

The cause bearing the above captioned title which is entitled “*Petition for Breach of Insurance Contract for the Payment of Disability Benefits*” (“Petition”) was originally filed in the 14th Judicial District Court for the Parish of Calcasieu, State of Louisiana, Division “D,” Civil Docket No. 2017-4792 on November 17, 2017.

II.

Service for Cigna Health and Life Insurance Company was made on December 5, 2017 by the East Baton Rouge Sheriff’s Office through personal service to the Secretary of State. Cigna Health did not insure the policies at issue in this matter, nor did it administer the claims at issue, and reserves all rights to move for dismissal based on lack of personal and subject matter jurisdiction.

III.

Service for Life Insurance Company of North America was made on December 5, 2017 by the East Baton Rouge Sheriff’s Office through personal service to the Secretary of State.

IV.

It has been less than thirty days since the citation directed to each defendant in the State Court proceeding was served upon the defendants. Removal of this claim is, therefore, timely pursuant to 28 U.S.C. § 1446(b).

V.

A copy of the original Petition and referenced citations are annexed to this Notice of Removal in accordance with the provisions of 28 U.S.C. § 1446 and is identified as “**Exhibit A.**”

VI.

Plaintiff, Julia M. Randle, born Welborn, is a resident of the State of Louisiana.

VII.

Defendant, Cigna Health and Life Insurance Company, is not registered to do business in the State of Louisiana. Furthermore, defendant, Life Insurance Company of North America, has no parent or subsidiary relationship with Cigna Health and Life Insurance Company.

VIII.

Defendant, Life Insurance Company of North America, is a Pennsylvania corporation and has its principal place of business in Philadelphia, Pennsylvania

IX.

This Notice of Removal is based on 28 U.S.C. §1441, 28 U.S.C. §1331, because plaintiff's claim is for benefits under an employee welfare benefit plan governed by the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §1001, *et seq.* ("ERISA").

X.

The aforesaid Petition alleges that plaintiff became disabled on approximately November 18, 2016.

XI.

The aforesaid Petition alleges that plaintiff is entitled to short and long term disability benefits under a disability plan written through her employer, Isle of Capri Casino Hotel, together with "legal interest from the date of judicial demand, attorney fees, and all court costs."

XII.

The above-described action is one over which the United States District Court also has original jurisdiction pursuant to 29 U.S.C. §1132 and 28 U.S.C. §1331, inasmuch as the matter involves a claim for benefits under an employee welfare benefit plan, which was established pursuant to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §1001, *et seq.* (“ERISA”). The definition of an employee group benefit plan is set forth at 29 U.S.C. §1002(3) which states:

The term ‘employee benefit plan’ or ‘plan’ means . . . an employee welfare benefit plan or an employee pension benefit plan or a plan which is both an employee welfare benefit plan and an employee pension plan.

The term “employee welfare benefit plan” is defined as:

. . . any plan, fund, or program . . . established or maintained by an employer . . . to the extent that such plan, fund or program was established or is maintained for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, (A) medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability death . . .

Id. §1002(1).

XIII.

ERISA preempts the state law claims contained in the Petition and provides the exclusive remedy when a plaintiff seeks to recover benefits under an employee welfare benefit plan. ERISA §§502(a)(1)(B) and 514, 29 U.S.C. §§1132(a)(1)(B) and 1144; see *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41 (1987) and *Aetna Health, Inc. v. Davila*, 542 U.S. 200 (2004). Therefore, this court has original federal question jurisdiction over this action pursuant to 28 U.S.C. §1331. As an action of a civil nature founded on a claim or right arising under the laws of the United States, this action is being removed to the United States District Court for the Western District of Louisiana pursuant to the provisions of 28 U.S.C. §1441(a) and (b).

XIV.

Petitioner respectfully requests that this Notice of Removal be filed in the records of the United States District Court for the Western District of Louisiana, State of Louisiana, effecting the removal of the suit entitled “*Julia M. Randle Born Welborn v. Cigna Health and Life Insurance Company, Life Insurance of North America*,” Civil Docket No. 2017-4792, on the docket of the 14th Judicial District Court for the Parish of Calcasieu, State of Louisiana, Division “D.”

XV.

Upon filing the Notice of Removal, petitioner will provide written notification of the Removal to the plaintiff and will file a copy of the Notice of Removal with the 14th Judicial District Court, Calcasieu Parish, Louisiana. A copy of the state court notification is attached as **Exhibit “B.”**

WHEREFORE, defendants, Cigna Health and Life Insurance Company and Life Insurance Company of North America, petitioner herein, respectfully requests that this Notice be deemed good and sufficient and that this cause be removed to this Court.

Respectfully submitted,

s/ Lauren A. Welch

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CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2017, a copy of the foregoing pleading was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by e-mail to steven@halelawfirm.com and taylor@halelawfirm.com.

s/Lauren A. Welch
LAUREN A. WELCH